



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/160641

PRELIMINARY RECITALS

Pursuant to a petition filed September 15, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Winnebago County Department of Human Services in regard to Medical Assistance, a hearing was held on October 14, 2014, at Oshkosh, Wisconsin.

The issue for determination is whether the Winnebago County Department of Human Services (the agency) correctly ended the Petitioner's BadgerCare+ benefits, effective October 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Leslie Vosters, Fair Hearing Coordinator
Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. On August 26, 2014, the Petitioner completed a health care and child care renewal. (Exhibit 6)

3. On August 27, 2014, the agency sent the Petitioner a notice of proof needed requesting income verification by September 5, 2014. (Exhibit 4)
4. On September 3, 2014, the Petitioner provided three bi-weekly paystubs:
 - August 1, 2014, showing gross income of \$1284.54
 - August 15, 2014, showing gross income of \$1557.81
 - August 29, 2014, showing gross income of \$1307.97
 (Exhibit 5)
5. Petitioner's paystubs also reflect that she has a pre-tax deduction for a medical insurance premium of \$51.43 per pay period. (Id.)
6. Petitioner receives child support for her infant son, in the amount of \$253.84 per month. (Exhibits 7 and 8)
7. On September 9, 2014, the agency sent the Petitioner a notice indicating that her health care benefits and her son's healthcare benefits would be ending effective October 1, 2014, because her household income went over the program limit and because they have access to health insurance, for which her employer will pay 80% of the premium. (Exhibit 7)
8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 15, 2014. (Exhibit 1)
9. The Petitioner does have access to health insurance through her employer and her employer pays 80% of the premium. (Testimony of the Petitioner)
10. Petitioner's assistance group consists of two people, the Petitioner and her son. (Exhibit 7)

DISCUSSION

Eligibility for Petitioner

Effective April 1, 2014, parents/adult caretakers must have Medicaid Adjusted Gross Income (MAGI) below 100% of the Federal Poverty Limit (FPL) in order to be eligible for BadgerCare+ benefits. *Badger Care+ Eligibility Handbook (BEH) §16.1.1*

For an assistance group of two people, 100% FPL is \$1,310.83 per month. *BEH §50.1*

It is the agency's contention that Petitioner's household income exceeds 100% of the Federal Poverty Level and as such, she is not eligible for benefits.

For BadgerCare+ purposes, only actual gross monthly income is used. Estimated amounts using the 4.3 weekly pay period or 2.15 bi-weekly pay period multipliers are NOT used. *Process Help §16.4.1*; see also *Ops Memo 01-0*.

Averaging, the Petitioner's income we have the following calculations:

$$\begin{aligned} \$1284.54 + 1557.81 + 1307.97 &= \$4150.32 / 3 = \$1383.44 \text{ per pay period} \\ \$1383.44 \times 2 &= \$2766.88 \text{ average income per month.} \end{aligned}$$

Per BEH §16.3.2 certain deductions for insurance premiums that are withheld pre-tax from a paycheck, may be deducted from income when calculating Medicaid Adjusted Gross Income.

Thus, Petitioner's deduction for health insurance premiums withheld from her paychecks works out to be as follows:

$$\$51.43 \times 2 = \$102.86 \text{ per month}$$

As such, Petitioner's MAGI income works out to be:

\$2766.88 gross income
 -\$102.86 pre-tax withholding for health insurance premiums

\$2664.02 MAGI¹

Petitioner's Medicaid Adjusted Gross Income of \$2664.02 is over the 100% FPL, \$1,310.83 income limit. As such, the agency correctly determined that the Petitioner is not eligible for BadgerCare+ benefits.

The Petitioner argued that her August 2014 paystubs were not representative of her actual income and so provided additional paystubs from September 2014 and October 2014 showing the following income and premium deductions:

September 12, 2014	\$1277.59 gross income	Medical Premium \$57.88
September 26, 2014	\$1174.97 gross income	Medical Premium \$57.88
October 10, 2014	\$1235.86 gross income	Medical Premium \$57.88

However, even averaging out that income puts the Petitioner over the 100% FPL income limit of \$1,310.83 for two people:

$$\begin{aligned} & \$1277.59 + 1174.97 + 1235.86 = 3688.42 / 3 = \$1229.47 \\ & \$1229.47 \times 2 = \$2458.95 \text{ average gross monthly income} \\ & \$2458.95 - \$115.76 \text{ Medical Premium} = \$2343.19 \text{ MAGI} \end{aligned}$$

Consequently, the agency correctly ended the Petitioner's benefits, because she was over the income limit.

Eligibility for her Child

Effective April 1, 2014, children (those who are under age 19), must have Medicaid Adjusted Gross Income (MAGI) below 306% FPL. *Badger Care+ Eligibility Handbook (BEH) §16.1.1*

306% FPL for a household of two individuals is \$4,011.15. Based upon the above calculation of Petitioner's income, her child is financially eligible for BadgerCare+ benefits without a premium. (*See also BEH §19.1*) \$2343.19 is 179% of FPL for an assistance group of two.

Petitioner's son is listed as a three month old infant. Under BEH §8.2, he is also eligible as a continuously eligible new born, until he reaches 13 months old and is not subject to premiums or to the health insurance access/coverage requirements. Id.

As long as Petitioner's MAGI remains below 185% of FPL, her child will not be subject to the health insurance access/coverage requirements through age 5, unless there is a change in the law. *BEH §7.8.2, paragraph 4*

CONCLUSIONS OF LAW

1. The agency correctly ended BadgerCare+ benefits for the Petitioner, effective October 1, 2014.
2. The agency did not correctly end BadgerCare+ benefits for Petitioner's son.

¹ Under BEH §16.5, child support payments are **not** counted as income, under MAGI rules.

THEREFORE, it is

ORDERED

That the agency reinstate BadgerCare+ benefits for Petitioner's son, effective October 1, 2014. The agency shall take all administrative steps to complete this task within 10-days of this decision.

The petition, in all other respects, is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

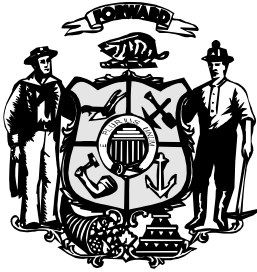
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 13th day of November, 2014.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 13, 2014.

Winnebago County Department of Human Services
Division of Health Care Access and Accountability